

REMARKS

By this Amendment, claims 1-10, 12-18, and 25-33, and 35 are canceled without prejudice or disclaimer. As a result, claims 11, 19-24, 34, and 36-40 are pending in the application.

Applicant thanks the Examiner for conducting a brief telephone interview on May 18, 2005, the interview being limited to discussion of the § 112, second paragraph rejection of claim 11, and to the § 103 rejection of claims 36-38 and 40 as stated in the Office action mailed April 26, 2005. Agreement was reached regarding a claim 11 amendment that would cure any lack of clarity. Agreement was also reached whereby the Examiner agreed to withdraw the § 103 rejection of claims 36-38 and 40.

Applicant also thanks the Examiner for indicating that claims 11, 19-24, 34, and 39 contain patentable subject matter and would be allowable if claim 11 § 112 informalities are overcome and if the respective claims are appropriately rewritten. By this Amendment, claim 11 is amended to overcome the § 112 rejection and claims 11, 19, and 34 are rewritten to include the limitations of their respective base claims and intervening claims. Therefore, claims 11, 19-24, and 34 are allowable. Claim 39 is not now rewritten because the Examiner has agreed to withdraw the present rejection of claim 36, the base claim of claim 39.

The present cancellation of claims is intended to pass the present case to issue, and is not necessitated by any prior art, applied or otherwise.

In the May 18 interview, Applicant's representative emphasized that the applied references to *Clausen* and *Wigoda* teach away from the scraper of independent claim 36 and the method of independent claim 40, at least because these references teach away from the claimed combinations. Specifically, the Examiner's proposed modification would render each reference

unsatisfactory for its intended purpose, at least because a receptacle for receiving the earth scraped by the scraper blade would cause catastrophic problems for the *Clausen* "countermine breaching power blade," which is intended to be used as a mine clearing rake (e.g., *Clausen*: Title; col. 1: lines 8-10, 18-20; col. 2: lines 29-31), and would be contrary to the *Wigoda* intent to provide a "beach trash machine" that screens trash from beach sand and deposits only the trash in a container 14 while returning the sand to the beach, and that provides a blade to avoid disturbance of the earth by the beach trash machine by smoothing over the tracks left by the machine (e.g., *Wigoda*: Title; col. 1: line 7; col. 2: lines 44-49). *In re Gordon*, 221 USPQ 1125 (Fed. Cir. 1984), cited in MPEP § 2143.01. Therefore, there would have been no suggestion or motivation to have modified the applied references. Additionally, the applied references, alone or in combination, fail to teach all the claim limitations. *In re Royka*, 180 USPQ 580 (CCPA 1974), cited in MPEP §2143.03. Specifically, neither reference teaches or suggests providing a receptacle for receiving the earth scraped by the scraper blade.

Additional reasons exist for the patentability of claims 36-40 over the applied references, including those stated in previous remarks of record.

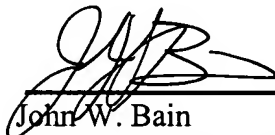
Request for Interview

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly **requested to call** the undersigned at the telephone number listed below.

Amendment under 37 C.F.R. § 1.116
U.S. Application Serial Number 10/690,337

Applicant hereby petitions for any extension of time which may be required to maintain the pendency of this case, and any required fee, except for the Issue Fee, for such extension is to be charged to Deposit Account No. 10-0270.

Respectfully submitted,



John W. Bain
Registration No. 42,283

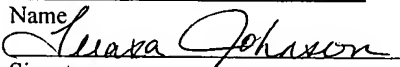
Jansson, Shupe & Munger, Ltd.
245 Main Street
Racine, WI 53403
Telephone: (262) 632-6900
Facsimile: (262) 632-2257

Date: **May 19, 2005**

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to: MAIL STOP AF
COMMISSIONER FOR PATENTS, ALEXANDRIA, VA 22313-1450 on
MAY 19, 2005

TERESA JOHNSON
Name


Signature

5/19/05
Date